

Remarks

Claims 3, 6-10, 12, 14-17, 19, 21-25, 29-33, 36-39, and 48-49 are now pending in this application. Claims 3, 6-10, 14-16, 19, 21, 29-33, and 36-39 are rejected. Claims 12, 17, and 22-25 are objected to. Claims 1, 2, 4, 5, 11, 13, 18, 20, 26-28, 34, 35, and 40-47 are canceled without prejudice, waiver, or disclaimer. Claims 48 and 49 are newly added. Claims 3, 6-10, 15-17, 21-25, 30-33, and 36-39 have been amended. No new matter has been added.

In accordance with 37 C.F.R. 1.136(a), a three-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated September 26, 2003 for the above-identified patent application from December 26, 2003 through and including March 26, 2004. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of \$950.00 to cover this extension of time request also is submitted herewith.

Applicants respectfully submit that a copy, with Examiner's initials and signature, of information disclosure statements (PTO-1449) filed on January 2, 2002 and filed on February 21, 2002 (PTO-1449), and resubmitted on May 28, 2003 in response to a Notice under 37 C.F.R. §1.251, has not been provided with the Office Action. Applicants respectfully request that an executed copy of the information disclosure statements be provided.

Applicants acknowledge that the restriction requirement has been made final, and Applicants have cancelled Claims 1, 2, 4, 5, 11, 13, 18, 20, 26-28, 34, 35, and 40-47, which were withdrawn from prosecution as a result of the restriction requirement.

The objections to Claims 10, 12, 14, 19, 21-25, and 29-33 is respectfully traversed. Applicants respectfully submit that the dependencies of Claims 10, 12, 14, 19, 21-25, and 29-33 were corrected in an amendment filed on July 28, 2002 and re-submitted on May 28, 2003 in response to a notice under 37 C.F.R. §1.251. Accordingly, Applicants respectfully request that the objections to Claims 10, 12, 14, 19, 21-25, and 29-33 be withdrawn.

The rejection of Claims 6-9 under 35 U.S.C §112, second paragraph, is respectfully traversed. Applicants have amended Claims 6-9 and respectfully submit

that Claims 6-9 particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. Accordingly, Applicants respectfully request that the section 112 rejection to Claims 6-9 be withdrawn.

The rejection of Claims 3 and 8 under 35 U.S.C. § 102(b) as being anticipated by Sharaf et al. (U.S. Patent No. 5,638,948) is respectfully traversed.

Sharaf et al. describe a toggle mechanism (42) that includes a handle (46), a six-bar linkage (48), and a plurality of springs (50) (column 4, lines 40-41). The handle includes a handle portion (52) and a body portion (54) (column 4, lines 42-43). Each of the springs is connected between the six-bar linkage and the body portion of the handle (column 4, lines 44-45). A crossbar (44), having a longitudinal axis I-I, is retained between the handle and the six-bar linkage (column 4, lines 45-47). The handle and linkage are rotated transversely with respect to the longitudinal axis I-I (column 4, lines 47-49). The handle can be operated by manual or by other type of devices, such as a solenoid (49), etc (column 4, lines 50-51). A plurality of moveable contacts (56) are carried by the crossbar (column 4, lines 52-53). Each moveable contact has two contacting ends (58,60) (column 4, lines 53-54). The moveable contacts are rotated by the handle from a neutral open position to a closed position, so as to contact a set of stationary contacts (62), or from the neutral open position to another closed position, so as to contact another set of stationary contacts (62) (column 4, lines 54-60).

Claim 3 recites a transfer switch for switching between power sources for a load, the transfer switch including “a plurality of phase plates, each said phase plate comprising a centerline about which said phase plate is configured symmetrically; a plurality of stationary contact pads associated with each said phase plate, each said stationary contact pad associated with a power source; a movable contact assembly associated with each said phase plate, wherein said movable contact assembly includes a movable finger attached to a braid assembly; and a shaft connecting said phase plates and upon which each said movable contact assembly is mounted for movement between said stationary contact pads associated with each said phase plate.”

Sharaf et al. do not describe or suggest a transfer switch as recited in Claim 3. Specifically, Sharaf et al. do not describe or suggest a movable contact assembly associated with each the phase plate, where the movable contact assembly includes a movable finger attached to a braid assembly. Rather, Sharaf et al. describe the crossbar that carries the plurality of moveable contacts and is retained between the handle and the six-bar linkage. Accordingly, Sharaf et al. do not describe or suggest the braid assembly to which the movable finger is attached. For the reasons set forth above, Claim 3 is submitted to be patentable over Sharaf et al.

Claim 8 depends from independent Claim 3. When the recitations of Claim 8 are considered in combination with the recitations of Claim 3, Applicants submit that Claim 8 likewise is patentable over Sharaf et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 3 and 8 be withdrawn.

The rejection of Claims 6, 7, 19, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Sharaf et al. in view of Okutomi et al. (U.S. Patent 6,024,896) is respectfully traversed.

Sharaf et al. is described above. Okutomi et al. describe a circuit breaking chamber (1) that is constituted by an insulating vessel (2) formed practically on a cylinder by insulating material and metal covers (4a,4b) provided at both ends thereof, with the interposition of sealing fitments (3a and 3b), the chamber being maintained under vacuum (column 4, lines 57-61). The circuit breaking chamber has arranged within it a pair of electrodes (7 and 8) mounted at facing ends of conductive rods (5 and 6) (column 4, lines 62-64). For example, the upper electrode (7) is the fixed electrode while the lower electrode (8) is the movable electrode (column 4, lines 64-66).

Claims 6, 7, 19, and 21 depend, directly or indirectly, from independent Claim 3 which recites a transfer switch for switching between power sources for a load, the transfer switch including “a plurality of phase plates, each said phase plate comprising a centerline about which said phase plate is configured symmetrically; a plurality of stationary contact pads associated with each said phase plate, each said stationary

contact pad associated with a power source; a movable contact assembly associated with each said phase plate, wherein said movable contact assembly includes a movable finger attached to a braid assembly; and a shaft connecting said phase plates and upon which each said movable contact assembly is mounted for movement between said stationary contact pads associated with each said phase plate.”

Neither Sharaf et al. nor Okutomi et al., considered alone or in combination, describe or suggest a transfer switch as recited in Claim 3. Specifically, neither Sharaf et al. nor Okutomi et al., considered alone or in combination, describe or suggest a movable contact assembly associated with each the phase plate, where the movable contact assembly includes a movable finger attached to a braid assembly. Rather, Sharaf et al. describe the crossbar that carries the plurality of moveable contacts and is retained between the handle and the six-bar linkage and Okutomi et al. describe facing ends of conductive rods on which pair of electrodes are mounted. Accordingly, neither Sharaf et al. nor Okutomi et al., considered alone or in combination, describe or suggest the braid assembly to which the movable finger is attached. For the reasons set forth above, Claim 3 is submitted to be patentable over Sharaf et al. in view of Okutami et al.

When the recitations of Claims 6, 7, 19, and 21 are considered in combination with the recitations of Claim 3, Applicants submit that dependent Claims 6, 7, 19, and 21 likewise are patentable over Sharaf et al. in view of Okutami et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 6, 7, 19, and 21 be withdrawn.

The rejection of Claims 9 and 15-16 under 35 U.S.C. § 103(a) as being unpatentable over Sharaf et al. in view of Okutomi et al., and further in view of Russo et al. (U.S. Patent 4,071,835) is respectfully traversed.

Sharaf et al. and Okutomi et al. are described above. Russo et al. describe a relay that includes a baseplate (11) on which is mounted a contact assembly (12) (column 2, lines 30-31). The specific contact assembly includes four electrical terminals (13, 14, 15, and 16) for making electrical connection to appropriate circuitry being controlled by the relay (column 2, lines 34-37). The terminals are at the ends of

conductive bars (21, 22, 23, and 24), respectively, which are mounted in a supporting member or housing (20) (column 2, lines 37-40). A contact carrier (30) of a suitable insulating material, typically a thermoplastic material and more specifically nylon, is mounted within the supporting member so as to permit reciprocal movement in a vertical direction (column 2, lines 46-50). The contact carrier supports movable contact arms (31 and 32) which have contacts mounted at each end for engagement with the fixed contacts (column 2, lines 50-52).

Claims 9 and 15-16 depend from independent Claim 3 which recites a transfer switch for switching between power sources for a load, the transfer switch including “a plurality of phase plates, each said phase plate comprising a centerline about which said phase plate is configured symmetrically; a plurality of stationary contact pads associated with each said phase plate, each said stationary contact pad associated with a power source; a movable contact assembly associated with each said phase plate, wherein said movable contact assembly includes a movable finger attached to a braid assembly; and a shaft connecting said phase plates and upon which each said movable contact assembly is mounted for movement between said stationary contact pads associated with each said phase plate.”

None of Sharaf et al., Okutomi et al., or Russo et al., considered alone or in combination, describe or suggest a transfer switch as recited in Claim 3. Specifically, none of Sharaf et al., Okutomi et al., or Russo et al., considered alone or in combination, describe or suggest a movable contact assembly associated with each the phase plate, where the movable contact assembly includes a movable finger attached to a braid assembly. Rather, Sharaf et al. describe the crossbar that carries the plurality of moveable contacts and is retained between the handle and the six-bar linkage, Okutomi et al. describe facing ends of conductive rods on which pair of electrodes are mounted, and Russo et al. describe the contact carrier that supports movable contact arms which have contacts mounted at each end for engagement with the fixed contacts. Accordingly, none of Sharaf et al., Okutomi et al., or Russo et al., considered alone or in combination, describe or suggest the braid assembly to which the movable finger is attached. For the reasons set forth above, Claim 3 is submitted to be patentable over Sharaf et al. in view of Okutami et al. and further in view of Russo et al.

When the recitations of Claims 9 and 15-16 are considered in combination with the recitations of Claim 3, Applicants submit that dependent Claims 9 and 15-16 likewise are patentable over Sharaf et al. in view of Okutami et al. and further in view of Russo et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 9 and 15-16 be withdrawn.

Moreover, Applicants respectfully submit that the Section 103 rejections of Claims 6, 7, 9, 15-16, 19, and 21 are proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. None of Sharaf et al., Okutami et al., or Russo et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Sharaf et al. with Okutami et al. or Russo et al. because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other

parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Sharaf et al. teach the crossbar that carries the plurality of moveable contacts and is retained between the handle and the six-bar linkage, Okutomi et al. teach facing ends of conductive rods on which pair of electrodes are mounted, and Russo et al. teach the contact carrier that supports movable contact arms which have contacts mounted at each end for engagement with the fixed contacts. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejections of Claims 6, 7, 9, 15-16, 19, and 21 be withdrawn.

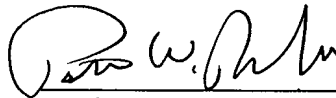
For at least the reasons set forth above, Applicants respectfully request that the rejections of Claims 6, 7, 9, 15-16, 19, and 21 under 35 U.S.C. 103(a) be withdrawn.

Claims 12, 17, 22-25 (upon proper dependency of Claims 12 and 22-25), and 36-39 have been indicated to contain allowable subject matter if rewritten to include all of the limitations of the base claims and any intervening claims. Applicants thank the Examiner for the indication of allowable subject matter in Claims 12, 17, 22-25, and 36-39.

Newly added Claims 48-49 depend from independent Claim 3, which is submitted to be in condition for allowance and is patentable over the cited art. For at least the reasons set forth above, Applicants respectfully submit that Claims 48-49 are also patentable over the cited art.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick W. Rasche", written over a horizontal line.

Patrick W. Rasche
Registration No. 37,916
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070